

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
UNITED STATES OF AMERICA,

-against-

ELSON WARREN,

Defendant
-----X

04 CR 354 (S-3) (NG)

ORDER

GERSHON, United States District Judge:

Defendant Elson Warren filed a *pro se* motion on January 19, 2016, seeking to dismiss the indictment. Warren's claims are premature to the extent they address considerations for sentencing. The remaining claim of vindictive and malicious prosecution is rejected. That claim is based on the theory that Warren's July 11, 2014 search and subsequent arrest lacked, respectively, reasonable suspicion and probable cause. In denying Warren's motion to suppress, this court found that both the search and arrest were lawful. (Opinion & Order (October 22, 2015) [ECF No. 443].) The court reiterated that the underlying search was lawful in its order denying Warren's previous *pro se* motion to dismiss the indictment. (Order (December 10, 2015) [ECF No. 446].)

In light of the foregoing, Warren's motion to dismiss is DENIED in all respects.

**Dated: Brooklyn, New York
March 9, 2016**

SO ORDERED.

s/Nina Gershon
NINA GERSHON
United States District Judge